

# SPONSOR'S REBUTTAL TO FISCAL NOTE

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**Bill Number:** HB 299

**Date Prepared:** February 20, 2011

**Short Title:** Provide that third DUI is a felony

**Sponsor:** Rep. Kris Hansen

**Fiscal Note Version and Date:** 2/18/11 HB0299\_02revised

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**Generally, why do you disagree with the fiscal note?**

The Department of Corrections had incorrectly interpreted some data and mislabeled the data source for some information.

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**Specifically, what in the fiscal note do you feel is flawed?**

*[Describe specific assumptions, calculations, technical issues, etc.]*

Department of Corrections assumption:

- 1 indicates data on 736 second or subsequent DUI's is from the Office of Court Administrator but further review with Corrections staff reveals that this data is from the Department of Justice Motor Vehicle Division
  - 1a and 1c incorrectly interpret data included in the report "Analysis of South Dakota 24-7 Sobriety Program Data" prepared by Mountain Plains Evaluation, LLC and dated January 2007. The department uses data on page 11 to calculate a 34% program failure rate and that 19% of participants would need additional treatment. A phone conversation with project staff from the SD Attorney General's Office indicates that this data is simply data on those that pass/fail testing not data on success or failure of participants in the program or indication of program participants being cited for an additional DUI or participant recidivism. The SD Attorney General's Office is currently analyzing statistical data and preparing a report on participant outcomes including analysis of outcomes for program participants compared to non participants. Additionally, with regard to the 34% that failed one or two tests, only 8.8% failed four or more tests.
  - 1e assumes the department would pay for monitoring devices rather than offenders
  - The fiscal note does not estimate the potential cost avoidance if offenders are successful under this program therefore avoiding a 4<sup>th</sup> DUI and placement at a program such as WATCH. Department statistics indicate there were 473 admissions to WATCH during the 2 year period from July 1, 2008 to June 30, 2010 or an average of 236 per year. A 5% per year reduction in the number of admissions to WATCH would equate to a reduction of almost 12 offenders or roughly the same number of offenders assumption 1c estimates would need further treatment under the provisions of this bill
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**What is your estimate of the fiscal impact?**

Because the SD 24/7 program has not yet published program outcome data for participants in their program it is difficult to predict the potential fiscal impact of implementing the 24/7 Sobriety program in Montana for 3<sup>rd</sup> DUI offenders.

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